

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARKEL INSURANCE CO.	:	CIVIL ACTION
	:	
v.	:	
	:	
UNITED STATES JUDO	:	
ASSOCIATION, et al.	:	NO. 99-591

MEMORANDUM AND ORDER

Fullam, Sr. J.

April , 1999

Plaintiff seeks a declaratory judgment to the effect that the insurance policy which it issued to the defendants does not require plaintiff to defend or indemnify the defendants in connection with a pending lawsuit in the Philadelphia Court of Common Pleas to recover damages on behalf of an injured minor-plaintiff, Jeffrey Rydzewski and his parents. This court's jurisdiction is predicated upon diversity of citizenship. The defendants all seek dismissal for lack of subject-matter jurisdiction, on the theory that plaintiff cannot satisfy the threshold requirement of more than \$75,000 in controversy.

It is clear that the damages being claimed in the state court litigation could well exceed \$75,000 but, since the defendants apparently are now willing to concede that plaintiff is not obliged to provide indemnity for such damages, but only to defend the state-court litigation, and since defense costs will not reach the \$75,000 level, defendants contend that this

action should be dismissed.

The dispositive issue is whether the amount in controversy at the time the complaint in this action was filed exceeded \$75,000. The demand letter sent to the plaintiff on behalf of the defendants, shortly before plaintiff filed its complaint for declaratory judgment, refers to plaintiff's "refusal...to defend and indemnify" the defendants against the Rydzewskis' lawsuit, and also threatens plaintiff with a possible lawsuit for bad-faith handling of the coverage matter. I am satisfied, therefore, that plaintiff's complaint meets the jurisdictional threshold. Moreover, it is not at all clear that the defendants have, in any legally binding fashion, abandoned their claims for indemnification or for bad faith damages. The Motion to Dismiss will be denied.

The Rydzewskis, plaintiffs in the underlying state court litigation, have applied for leave to intervene in this action in support of defendants' claims. That application will be granted.

An Order follows.

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ORDER

AND NOW, this            day of April, 1999, IT IS ORDERED:

1. Defendants' Motion to Dismiss is DENIED.
2. The application of Jeffrey Rydzewski, minor, and Mary Jo Rydzewski, as his parent and natural guardian, and in her own right, for leave to intervene as defendants in this action is GRANTED.

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John P. Fullam, Sr. J.